

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 19-cr-251-01-LM

Johnathon Irish

JURY INSTRUCTIONS - FORFEITURE

In view of your verdict that the defendant, Johnathan Irish, is guilty of being a prohibited person, a felon, in possession of a firearm, you have one more task to perform before I discharge you. You must now decide whether the defendant should surrender to the government his ownership interest in certain property as a penalty for committing that crime. We call this a "forfeiture." The government alleges that the defendant should have to surrender the following property to it: a Sig Sauer pistol and a Catamount Fury shotgun.

Under federal law, any person who is convicted of being a felon in possession of a firearm shall forfeit any firearm "involved in or used in" that violation. Therefore, the government is entitled to forfeiture if it proves by a preponderance of the evidence that the firearms listed above were involved in or used in the offense for which you have already found the defendant guilty.

Government's Burden of Proof

Note that this standard of proof is different than the one you used in determining whether the defendant was guilty of the crime charged. My previous instructions on the government's burden of proof regarding your verdict on the guilt of the defendant do not apply to your deliberations at this phase of the proceedings regarding forfeiture. In deliberating and deciding your verdict on forfeiture, I instruct you that the government need only prove by a preponderance of the evidence that the specified firearms were involved in or used in the defendant's crime. The government is not required to prove forfeiture beyond a reasonable doubt.

I repeat, the government must establish by a preponderance of the evidence that the firearms the government alleges are subject to forfeiture were involved in or used in the defendant's crime. This burden of proof is easier to meet than the burden of proof you applied in the guilt phase of your deliberations (beyond a reasonable doubt). To meet this burden, the government must convince you that it is more likely than not that the firearms described were involved in or used in the crime for which you found the defendant guilty.

What the Jury May Consider

While deliberating, you may consider any evidence, including testimony, admitted during the trial. All of my previous instructions regarding direct and circumstantial evidence, credibility of witnesses, and your duty to deliberate apply with respect to your deliberations regarding forfeiture. However, you must not reexamine your previous determination regarding the defendant's guilt for the crime charged. I instruct you specifically not to discuss in your forfeiture deliberations whether the defendant is guilty or not guilty of the firearms violation.

I further instruct you that you should not consider what might happen to the property in determining whether it is subject to forfeiture. For example, you should disregard any claims that other persons may have to the property. Such issues will be resolved by the court at a later time. Your sole concern is whether the government has proven that it is more likely than not that the firearms described were involved in or used in the crime for which you have found the defendant guilty.

Special Verdict Form

You will render your verdict using a special verdict form. The special verdict form lists each of the items of property the government alleges are subject to forfeiture - the Sig Sauer

pistol and the Catamount Fury shotgun - and asks whether each item is subject to forfeiture. You may answer each question on the special verdict form by simply putting an "X" or a check mark in the space provided next to the words "YES" or "NO."

You must reach a unanimous verdict as to whether the government has met its burden of proof regarding forfeiture on each individual item. That is, everyone must agree that the government did, or did not, prove by a preponderance of the evidence that the individual item listed was used in or involved in the defendant's crime.

When you have arrived at a verdict, notify the court security officer and you will be brought back into the courtroom where the foreperson will render the verdict orally, just as you did with respect to the guilt phase of the trial.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Criminal No. 19-cr-00251-LM

Johnathon Irish

SPECIAL VERDICT FORM - FORFEITURE

We, the jury, return the following special verdicts as to the following properties in which the government has alleged that the defendant, Johnathon Irish, has an interest:

1. Was one Sig Sauer 1911, .45 caliber pistol, S/N GS 34120, involved in or used in the crime for which defendant was convicted in count one?

YES _____

NO _____

2. Was one Zijiang Machinery Co., Model Catamount Fury, 12 gauge shotgun, S/N CAT-002586, involved in or used in the crime for which defendant was convicted in count one?

YES _____

NO _____

Foreperson

Date

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